

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

CRP.No. 1877 of 2001(E)

RCA.91/1998 of RENT CONTROL APPELLATE AUTHORITY, KOZHIKODE
RCP.80/1996 of RENT CONTROL COURT, KOZHIKODE

REVN. PETITIONER/RESPONDENT/RESPONDENT:

**V.CHANDRAN, S/O KELAPPAN, AGED 54,
KATTUPADANNA PARAMBA, 18/1506,
RAJESWARI MILL COMPOUND, PUTHIYARA,
KASABA AMSOM, KARIAKUNNU DESOM OF
KOZHIKODE TALUK (DIED).**

LRs IMPEADED

- 1. NIRMALA, D/O CHANDRAN, KATTUPADANNA
PARAMBA, 18/1506, RAJESWARI MILL
COMPOUND, PUTHIYARA, KASABA AMSOM,
KARIAKUNNU DESOM, KOZHIKODE TALUK.**
- 2. SATHI, DO. DO.**
- 3. ANITHA, DO. DO.**
- 4. VINITHA, DO. DO.**

Impleaded as per order dated 25.7.2007 on IA 1772/2007

**BY ADV. SRI.P.V.KUNHIKRISHNAN
SRI.SALIL NARAYANAN K.A., ADV.COMMR.**

RESPONDENTS/LRs OF APPELLANT/LRs OF PETITIONER:

- 1. KOUSALYA, W/O V.K.SHANMUGHAN,
AGED 52, KASABA AMSOM, KARIAKUNNU
DESOM OF KOZHIKODE TALUK.**
- 2. NISHI, D/O V.K.SHANMUGHAN, AGED 37,
DO. DO.**
- 3. DHANYA, DO. AGED 35, DO. DO.**
- 4. SAI, S/O V.K.SHANMUGHAN, AGED 33, DO. DO.**

BY ADV. SRI.C.P.MOHAMMED NIAS

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.No. 1877 of 2001

ORDER

Balachandran, J.

The petitioner is the tenant. He was the counter petitioner in R.C.P.No.80/96 on the file of the Rent Control Court, Kozhikode, filed by the original landlord, whose legal heirs are the respondents. R.C.P.No.80/96 was filed for eviction of the petitioner under Sections 11(2) (b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The petition was dismissed by the Rent Controller on both the counts. The landlord assailed the said order, dismissing the RCP for eviction, by filing R.C.A.No.91/98 before the Rent Control Appellate Authority, Kozhikode. The appellate authority ordered eviction under Section 11(3) of the Act, vide judgment impugned and hence, this revision at the instance of the petitioner/tenant.

2. It is vehemently contended before us by the learned counsel for the petitioner that a claim under Section 11(3) of the Act is not maintainable, as the claim was advanced by the landlord for vacant possession of the scheduled room for the purpose of accommodating his employees; that such a claim does not fall under Section 11(3) of the Act; that the landlord has no obligation in law to provide accommodation for his employees and that, therefore, the claim advanced is only a ruse for eviction.

3. The scheduled room is a portion of the building, which has three rooms, of which two rooms are used for the accommodation of the employees of the landlord, who is conducting an oil mill and a saw mill. According to the landlord, if he provides accommodation for his employees, the business in his mills can be run more profitably, as he would be able to exploit the man power in an efficient manner.

4. The petitioner, as RW1, has admitted in his evidence that the oil mill and the saw mill are conducted by the landlord in partnership and that there are six employees. All the same, he is not aware whether the occupants of the rooms adjacent to the scheduled room are not the employees of the mills and he pleads ignorance of the conduct of the saw mill as also the residences of the employees of the mills and as to whether the landlord is conducting a tile factory as well. However, the evidence shows that the scheduled building is a residential building and the petitioner/tenant was in occupation thereof from 1966 onwards paying only a nominal rent of Rs.12/- per month. It would be for the better advantage of the landlord, if his employees are put in occupation of the scheduled building, so that, that will be advantageous to have his employees in his industrial premises itself and maximum work can be extracted from the employees.

5. The contention that the need of the landlord of the scheduled room, to be provided to his employees for their occupation does not fall under Section 11(3) of the Act, is not tenable in view of the decision of this Court in **Narayanan v. Sudarsan Trading Co. Ltd.** (1977 KLT 595), wherein it was held that a company may undertake various form of occupation of their premises, which, inter alia, would take in, occupation by their employees as part of its efficiency drive or welfare measure. The same would be the position when the landlord runs a mill or other industrial concerns and desires to put his employees in possession of the building owned by him, especially when, the tenant, who is in occupation of the said building for a pretty long time, pays only a nominal rent of Rs.12/- per month. We see no ground to disagree with the view taken by the appellate authority as to interfere in revision and reverse the order of eviction passed by the appellate authority.

6. It is finally contended by the learned counsel for the petitioner that the petitioner be granted reasonable time to surrender vacant possession of the scheduled building after searching out another building for his occupation in the same locality. The request so made deserves to be considered favourably, in view of the fact that the petitioner is in occupation of the scheduled room from 1966 onwards and is not in affluent circumstances and the request is conceded to also by the respondents.

In the result, we dismiss this CRP. But, at the same time, we grant the petitioner time till 30.6.2008 to surrender vacant possession of the scheduled building to the respondents on the following conditions:

i. that he shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within two months from today.

ii. that he shall file an affidavit before the execution court within two months from today, reporting that all arrears of rent are cleared and unconditionally undertaking that he will surrender vacant possession of the scheduled building to the respondents/landlords positively on or before 30.6.2008 and that he will continue to pay the monthly rents on the due dates itself till he actually surrenders vacant possession of the scheduled building to the respondents/landlords and

iii. that in case the petitioner fails to comply with the above conditions, he shall not be entitled to the benefit of continuing in occupation of the scheduled building till 30.6.2008 and shall be liable to be evicted immediately on the expiry of the aforesaid two months in execution of the order of eviction passed against him.

(J.B.Koshy, Judge)

25th July, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.No.1877 of 2001

ORDER

25th July, 2007